

Appl. No. 10/825,250
Amdt. dated June 8, 2005
Reply to Office Action of March 22, 2005

REMARKS

Applicants have received and carefully reviewed the Office Action mailed March 22, 2005. In this response previously non-elected claims 46-49 have been cancelled, and claims 30-45 remain pending. Reconsideration and reexamination are respectfully requested.

Rejections under §102(e)

Claims 30-45 were rejected under 35 U.S.C. §102(e) as being clearly anticipated by Allman et al., (6,346,093), and Carrillo Jr., et al., (6,520,951). Applicants respectfully traverse these rejections.

The cited references are not prior art to the pending claims. The pending claims have an effective filing date of at least 13 September 1996. The pending case is the result of a number of continuations of a utility application (5,921,971, filed 09 September 1997) claiming the benefit of the 13 September 1996 provisional application (60/025,235).

The cited references are continuations-in-part of a utility application (6,007,522, filed 09 September 1997) claiming the benefit of the 13 September 1996 provisional application (60/025,235). Thus, the earliest effective filing date of the cited references is 13 September 1996. Therefore, the cited references are not prior art to the pending claims since they do not have an earlier effective filing date.

Applicants respectfully request reconsideration and withdrawal of the pending anticipation rejections.

Double Patenting

Applicants respectfully traverse the Examiner's rejection of claims 30-45 under the judicially created doctrine of obviousness-type double patenting over claims 1-10 of U.S. Patent No. 5,921,971. Applicants do not concede that the pending claims are not patentably distinct over the cited claims. In particular, Applicants note that at least pending claims 32-37 and 40-45 recite elements not disclosed or apparently suggested by claims 1-10 of U.S. Patent No. 5,921,971.

However, Applicants recognize that the pending application has an effective filing date that is the same as that of the cited reference. Thus, barring unusual circumstances, the patent

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term of the pending application has already been limited by the priority claim to the cited patent. Therefore, in order to facilitate prosecution, an appropriate Terminal Disclaimer is provided herewith.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Mark Agro et al.

By their Attorney,

Date: 6/8/05



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